

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

RESOLUTE FOREST PRODUCTS, INC.,  
et al.,

Plaintiffs,

v.

GREENPEACE INTERNATIONAL, et al.,

Defendants.

Case No. 17-cv-02824-JST

**ORDER DENYING MOTION FOR  
RELIEF FROM NON-DISPOSITIVE  
PRETRIAL ORDER OF MAGISTRATE  
JUDGE**

Re: ECF No. 270

Before the Court is Plaintiffs' motion for relief from a non-dispositive pretrial order of a magistrate judge. ECF No. 270. Plaintiffs ask the Court to reverse portions of Judge Westmore's Order Regarding Discovery Letter Nos. 1 and 2 ("Discovery Order"). ECF No. 269.

"A non-dispositive order entered by a magistrate must be deferred to unless it is 'clearly erroneous or contrary to law.'" *Grimes v. City & Cty. of San Francisco*, 951 F.2d 236, 241 (9th Cir. 1991) (quoting Fed. R. Civ. P. 72(a); 28 U.S.C. § 636(b)(1)(A)). "A decision is 'contrary to law' if it applies an incorrect legal standard or fails to consider an element of the applicable standard." *Ingram v. Pac. Gas & Elec. Co.*, Case No. 12-cv-02777-JST, 2013 WL 6174487, at \*2 (N.D. Cal. Nov. 25, 2013) (citation omitted). "The 'clearly erroneous' standard applies to the magistrate judge's findings of fact; legal conclusions are freely reviewable de novo to determine whether they are contrary to law." *Wolpin v. Philip Morris Inc.*, 189 F.R.D. 418, 422 (C.D. Cal. 1999). The district court "may not simply substitute its judgment" for that of the magistrate judge. *Grimes*, 951 F.2d at 241. Rather, "the district court may only set aside [a magistrate judge's] factual determinations if it is left with a definite and firm conviction that a mistake has been committed." *EEOC v. Peters' Bakery*, 301 F.R.D. 482, 484 (N.D. Cal. 2014) (internal quotation marks and citation omitted). This "deferential standard . . . indicates that decisions by the magistrate judge on nondispositive matters are essentially final

1 decisions of the district court which may be appealed in due course with other issues.” *United States*  
 2 *v. Abonce-Barrera*, 257 F.3d 959, 968-69 (9th Cir. 2001) (internal quotation marks and citation  
 3 omitted).

4 Plaintiffs are corporate entities which harvest wood for the manufacture and sale of paper  
 5 products. ECF No. 185 ¶¶ 24-30. Defendants are Greenpeace environmental advocacy organizations  
 6 and several of their employees (“Greenpeace”). *Id.* ¶¶ 31-33, 36-39. Plaintiffs allege that Greenpeace  
 7 engaged in a campaign called “Resolute: Forest Destroyer,” in which it targeted Plaintiffs with  
 8 misrepresentations regarding their sustainability practices in Canada. *Id.* ¶¶ 5-7. In particular,  
 9 Plaintiffs alleged misrepresentations related to (1) the Canadian Boreal Forest Agreement, *Id.* ¶¶ 69-  
 10 70, 106-107, 115, 224; (2) an Operational Memorandum memorializing an agreement to target  
 11 Plaintiffs, *Id.* ¶ 76; (3) logging activities in the Montagnes Blanches, *Id.* ¶ 212, 217-18, 306-09. 311;  
 12 and (4) Plaintiffs’ loss of four Forest Stewardship Council certifications, *Id.* ¶ 186-88.

13 On January 22, 2019, this Court issued an order dismissing all claims except for Plaintiffs’  
 14 claim for defamation based on Greenpeace’s alleged statements about Plaintiffs’ logging activities  
 15 in the Montagnes Blanches, and the corresponding Unfair Competition Law (“UCL”) claim. ECF  
 16 No. 246 at 34. Plaintiffs then sought discovery of: (1) “[a]ll documents, data, and communications  
 17 concerning Resolute;” (2) all documents concerning “the impacts of the forest product industry on  
 18 the population of woodland caribou in Canada” and on “intact forest landscapes in the Canadian  
 19 Boreal Forest;” and (3) information on the alleged Operational Memorandum, hacking, and cyber  
 20 activity directed at Plaintiffs. ECF No. 267 at 4. Judge Westmore found that “the scope and time  
 21 period of many discovery requests [were] too broad, particularly in light of [this Court’s] dismissal  
 22 order.” ECF No. 269 at 5.

23 In its motion for relief, Plaintiffs argue that Judge Westmore’s order erred in finding that  
 24 (1) liability in this case is limited to the Montagnes Blanches statements contained in a 2016 letter  
 25 and a 2017 Clearcutting report and (2) “many of the discovery requests that are limited to  
 26 [Greenpeace’s] motive, without any connection to the Montagnes Blanches” are too remote and  
 27 are outside the scope of this case. ECF No. 269 at 8; ECF No. 270 at 5-6. Plaintiffs ask that the  
 28 “Discovery Order be reversed to the extent it prohibits discovery concerning (1) statements that

1 Resolute was logging in off-limits areas, (2) the Operational Memorandum, and (3) Defendants'  
2 ill-will towards Resolute.” *Id.* at 8-9.

3 The Court has reviewed Plaintiffs’ objections to Judge Westmore’s order. ECF Nos. 270, 273.  
4 After careful consideration, the Court finds that Plaintiffs have not demonstrated that Judge  
5 Westmore’s order is clearly erroneous or contrary to law. As Judge Westmore noted, this Court’s  
6 January 2019 order limited the UCL claim to the two Montagnes Blanches statements. Moreover, as  
7 Judge Westmore properly found, many of Plaintiffs’ discovery requests are too broad because they  
8 have no connection with Plaintiffs’ remaining Montagnes Blanches causes of action. Accordingly,  
9 Plaintiffs’ motion for relief from a non-dispositive pretrial order of a magistrate judge is denied.

10 **IT IS SO ORDERED.**

11 Dated: October 16, 2019

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14 JON S. TIGAR  
United States District Judge

United States District Court  
Northern District of California